

**HATE THE PLAYER AND HATE THE GAME:  
THE POLITICS OF THE WAR AGAINST THE YOUNG**

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### **The Game**

Without question, our young people have paid a heavy price in the so-called War Against Crime. The most vulnerable political targets of the demagogues on crime policy were adolescents (Krisberg, 2005). The next most vulnerable political targets were women who were incarcerated in unprecedented numbers due to mandatory drug laws. The young children of these incarcerated moms were the civilian collateral damage of the Drug War, receiving less than benign attention by state criminal justice and welfare officials (Krisberg & Temin, 2000). To the extent that obscene levels of spending on the War on Crime have led to reduced funding for education, health care, after school programs, and job training, low income youngsters have paid an indirect and egregious tax to finance the attack on them by cynical politicians.

The War against the Young has taken many forms. The most significant assaults on children in California were new legislative and voter initiatives (Proposition 21) that were designed to try children as young as 14-years-old in criminal courts. Other states created even lower age limits for youths to be tried as adults. For example Michigan prosecuted children who were as young as 9-years-old. Related to this trend of “cracking down” on juvenile crime, many localities adopted aggressive anti-gang campaigns, including automated police intelligence files

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<sup>1</sup> The title of this paper takes poetic license with the Hip Hop phrase, “ Don’t hate the player, hate the game.” This saying is often used to excuse the behavior of people involved in exploitive and dishonest actions as part of the “survival of the fittest.” The phrase suggests a sense of pride in the abilities of some streetwise individuals to employ their wit and resiliency to overcome harsh social conditions that are often out of their control. By altering this phrase, I mean to say that the powerful and influential officials who push for destructive legal and social policies need to be held publicly accountable for their personal choices. These establishment players do have the ability to change the circumstances in which they operate.

that contained the names of tens of thousands of adolescents who were merely suspected of having some gang affiliation. Not even minimal standards of “probable cause” were required to place names in these files, and there were no clear methods through which a young person could remove his or her name from the gang intelligence systems. These law enforcement files were not covered by the usual confidentiality protections that normally apply to juvenile court proceedings. Further, vague evidence that a young person was “gang affiliated” could be used in criminal sentencing to greatly enhance penalties. A recently released documentary entitled *JUVIES* presents the tragic story of twelve young people aged 14-16 who were all sentenced to very long prison sentences. In several of the cases, the impact of gang enhancements produced enormous increases in the sentences. For example, the film profiles a 16-year-old Vietnamese boy with no prior arrests who is now serving a prison term of 35 years to life. He was driving a car when one of the passengers fired a gun. No one was hit by the bullet, and there were no injuries. Still, the young driver was convicted of attempted murder with gang enhancements that will keep him in prison for many decades. There was very little hard evidence that the young man was involved with any gangs.

The hysteria over juvenile gangs, partially fueled by the media, led to a virtual cottage industry of “gang experts” who allegedly could decipher graffiti for gang messages. With little objective evidence, some members the law enforcement community created fantastic mythologies about how Los Angeles street gangs were spreading their ominous colors of red and blue across the country, and even around the world. Long before the September 11<sup>th</sup> bombings of the World Trade Center and the Pentagon, the Patriot Act, and the Department of Homeland Security, the United States was gearing up for a life or death struggle against juvenile gangs. Ironically, juvenile crime was dropping during most of this period, and the violent presence of youth gangs were more prevalent on television or the cinema than in urban neighborhoods.

During this period, police agencies launched high profile “made-for-television” crackdowns on gangs. The Los Angeles Police Department organized massive weekend offensives (known as

“Operation Hammer”) in South Central Los Angeles that resulted in thousands of arrests. So many young people were taken into custody that the LAPD set up a temporary booking operation at the University of Southern California football stadium. These mass arrests were usually for minor crimes; the arrests resulted in few convictions and virtually no referrals to the California Youth Authority (Krisberg, 2005).

Fear of violent juvenile gang members persuaded California juvenile justice officials to send many more youths convicted of crimes to its juvenile prison system without even the pretense of considering alternatives to incarceration. In 1997, that system was almost at 200 percent of its housing capacity. It was at this time that the Youth Authority’s traditional emphasis on treatment and education was eroded, with increased use of custodial staff who dressed and comported themselves more like prison guards than counselors. Youth Authority employees were being organized by the California Correctional Peace Officers Association (CCPOA), which also represents the prison guards. This movement away from the rehabilitative model was illustrated by the practice of having some Youth Authority residents receive their educational programs in cages. These were steel mesh devices that were the size of a telephone booth. The teacher would pass the student his or her textbooks or lessons through a small slot in the cage. The Youth Authority also instituted the use of attack dogs in some of its facilities to prevent escapes and quell riots. Juvenile correctional facilities continued to utilize the attack dogs long after the Department of Corrections decided to abandon this practice. Funding for rehabilitation, mental health, and medical care in state juvenile facilities was severely cut back. In the mid-1990s, the Director of the Youth Authority adopted the rhetoric of the prison guards union and claimed that his facilities were among the “toughest beats in the state.”

At the local level, correctional boot camps and the ideology of “tough love” dominated community conversations about youth crime. Schools jumped into the War Against the Young by

creating mandatory suspension and expulsion policies such as “Zero Tolerance” programs that claimed to be making schools safer. Many urban schools required that youths pass through metal detectors to enter school buildings. Some public school districts debated requiring students to wear uniforms to classes so as to discourage “gang clothing.” Students were pressured to submit to mandatory drug testing if they wished to participate in extra-curricular programs and sports teams. More police than ever before were assigned to work on high school and junior high school campuses; other school districts hired their own private security officers. Unannounced searches of student desks and lockers became much more common. Students who allegedly were wearing gang colors were summarily kicked out of school.

There are only partial data on how many young people fell victim to pernicious Zero Tolerance policies. The California Department of Education website reported that there were almost 25,000 students recommended for expulsion in fiscal year 2002-03. Of those students, approximately 83 percent were actually expelled (California Department of Education, 2004). In recent years the numbers of California pupils expelled from school has increased steadily. While there were some limited legal challenges to these new rules, the general picture was of informal and arbitrary enforcement practices that were not guided by due process or equal protection of law. By all accounts, students of color were the most likely targets by these Zero Tolerance policies. Data from the Oakland Unified School District for 2003-2004 showed that white students accounted for just 6 percent of the 4,297 students who were suspended that year. African American students made up 71 percent of those suspended. The very limited data on the reasons for school suspensions and expulsions suggest that most of these severe actions were not taken against students who brought weapons to school or engaged in violence. For example, in the Berkeley Unified School District the overwhelming majority of suspensions and expulsions were for “defying authority,” .i.e., talking back or arguing with teachers and other school staff (Berkeley Unified School District, 2002).

Another crucial aspect of the War Against the Young was the movement to re-criminalize juvenile status offenses. These are offenses such as truancy, curfew violations, running away, and “incorrigibility” that are only law violations if committed by minors. In the 1970s there was a national reform movement to divert these youths from secure detention centers, keep them out of the formal juvenile court system, and expand the use of community-based organizations to deal with these family issues. California enacted legislation in 1978 (AB 3121) to remove status offenders from locked facilities and the formal justice system. Young women historically had been the primary targets of the status offense laws. Whereas young men were about as likely as girls to be arrested for juvenile status offenses, it was young women who were incarcerated for these behaviors. The perverse and prejudicial logic behind these policies was that girls needed to be protected from themselves, especially their nascent sexuality. The new law limiting the application of juvenile status offense laws significantly reduced the number of girls in state and county juvenile correctional institutions.

There was a rediscovery of the alleged value of strict enforcement of laws against truancy, the need to reestablish curfews for juveniles, and increased incarceration for runaways. Many communities passed new local ordinances to restrict the behavior of young people. Courts and probation agencies used the pretext of violations of probation or violations of court orders to charge youths with offenses that could result in their incarceration. Thus, youths who were brought into Court were ordered to attend school regularly, to be at home before a specific time, or to cooperate with their guardians. Young people who allegedly failed to meet these rules could be sentenced for more serious charges. In a practice known as “boot strapping,” youths who got into aggressive arguments with their parents or guardians could be charged with domestic violence. Children who were placed in foster care or group homes could be labeled as delinquents if they left these placements without official permission. Law enforcement and school officials asserted that

threatening young people and their parents with criminal prosecutions would reduce truancy rates. All of these severe restrictions on young people were loudly justified as measures required for increased child protection.

The campaign to arrest and incarcerate young people for status offenses was sold to the public based on heightened fears about child abductions and sexual exploitation of young children. In California and across the nation, there were well-financed media campaigns focusing on missing and exploited children. The federal government pumped millions of dollars into publicity about missing children through the National Center on Missing and Exploited Children. Despite these millions of taxpayer funds, there is no documented case in which the Center actually found a missing child.

Parents were frightened to death about the potential kidnapping of their children by strangers. Faces of children showed up on milk cartoons. Other commercial enterprises sold identification and fingerprinting equipment to petrified parents. Schools and nonprofit groups started training programs to teach young children to avoid abduction. Despite these scare campaigns, the evidence grew that most of the missing and exploited children had either been taken by their non-custodial parents, usually in the context of bitter divorce proceedings, or they were teenagers that had run away from home. Some research suggested that many of these runaways were actually escaping from abusive living situations. The Federal Bureau of Investigation estimated that there were fewer than 200 abductions by strangers a year in the entire nation. Of course there were a very small number of child kidnappings and murders such as the Adam Walsh and Polly Klaas tragedies that galvanized worldwide media attention and further fueled the hysteria about missing children. Motorists were often greeted with highway signs and broadcast "Amber Alerts" telling us about the most current missing child. Many of these alerts proved inaccurate and created false impressions about the frequency of child abductions.

Young people are virtual sitting ducks for politicians and other public officials who want to

push “get tough” crime policies. The immediate costs to cynical elected officials of fighting the War Against the Young appear to be minimal. Adolescents cannot or do not vote. Young people do not sit on the boards of directors of corporations, foundations, universities, religious organizations, or large nonprofit organizations. Few unions regard young people as their constituents, rather adolescents are often viewed as economic threats to older unionized workers. Youths were not invited to be active participants in the political discussions and decision-making forums that led to the War Against the Young. In the mainstream political process, youth are often used as “window dressing” and as a means to create campaign photo opportunities.

A school-based curriculum on civic engagement of the young is sorely lacking. Education in the politics of social justice is almost non-existent in most public educational settings. Young people do not belong to well-heeled political lobby groups such as the American Association of Retired People, the National Rifle Association, or the Chamber of Commerce. The conventional media rarely seeks out a youth perspective on critical public policy questions. The viewpoints of adolescents are generally not measured by influential public polling organizations. The organizations that seek to be advocates for young people are chronically underfunded, understaffed, and largely ignored by the political establishment.

Adolescents in this society are a lucrative market for a broad range of commodities including tobacco, alcoholic beverages, fast food and snacks, trendy clothing, grooming aids, expensive electronic toys, music, and movies, to name a few products. Genuine aspects of youth culture are often co-opted by the media which sells these images to young and old alike. For instance, the mass media embraced a powerful portrayal of violent, sexually promiscuous, drugged, urban minority youths that is retailed to suburban and rural youngsters so that they can spend their disposable income to cultivate the “Gangsta” look at the carefully protected and sanitized suburban shopping malls. These harsh racist stereotypes promoted by the media are, in



turn, used by adults to justify the need to increase social controls on the young.

The great American criminologist Marvin Wolfgang observed that fear of the young by adults is as old as human history. He wrote about a Sumerian tablet that revealed deep-seated fear that young people were the “barbarians at the gates” that would bring down the social order. Whether it was the sexually explicit young people of the Jazz Age of the 1920s, the Rock and Roll rebels of the 1950s, the culturally subversive Hippies of the 1960s, or the Hip Hop Generation of the 1990s, adolescents have almost always signaled that the social norms could be changed, sometimes in ways frightening for adults. These concerns may be on the rise as the baby boom generation is aging and facing retirement, and senior citizens become the largest voting block in the Nation. These fears intensify as young people of diverse racial and ethnic backgrounds make legitimate claims to be seen and heard. The perception that the young are wildly out of control and need tighter regulation is a longstanding and powerful cultural theme easily exploited by politicians, some religious leaders, and the media.

## **The Players**

While we can comprehend The Game in sociological terms and focus on the structural forces that led to bad social policies for the young, it is equally important to expose the perfidy of those power hungry politicians, government bureaucrats, and academic mountebanks that have fueled the War Against the Young. I would like to present a brief review of three dramatic California instances in which powerful and influential adults betrayed our young people. Besides talking about the main villains in the piece, I will discuss the smaller roles that others played in these examples of bad public policy.

### AB 136 and the Rise and Fall of Chuck Quackenbush

For more than a half century, California law mandated that persons under age 16 were to be

tried in juvenile courts regardless of the gravity of their crimes. While there were very limited examples of persons between the ages of 16 and 18 being tried as adults, the vast majority of minors were handled in the juvenile justice system and served their sentences in the California Youth Authority, the mission of which was to pursue the goals of treatment and rehabilitation, not punishment. Before 1994, the maximum sentence that could be given to a youthful murderer under the age of 16 was to be confined in the Youth Authority until age 25. Other states began amending their laws to permit serious juvenile offenders to be tried as adults and placed in prisons. For example, New York State revised its sentencing laws in 1978 to allow young offenders above the age of 14 to be handled in the adult criminal justice system. Throughout the country in the 1980s, states debated and passed new laws that sent more youths to the adult system. California was virtually alone among the large urbanized states to resist this urge to stiffen penalties for very young juvenile murderers.

All this changed as a politically ambitious Republican Legislator Chuck Quackenbush launched a media-focused set of hearings to support his bill, AB 136. The proposed legislation dropped the age at which children could be tried for murder in criminal courts, and could face a potential sentence in prison of Life Without the Possibility of Parole. Quackenbush used a time-tested method to push his agenda—organize events at which the surviving relatives of murder victims talked about the tragic loss of their family members and publicly shared their unrelenting sorrow.

The media, especially the local television evening news, has come to adore these stories. Cynical news directors often say, “if it bleeds it leads,” and the focus on the suffering of ordinary citizens is compelling television. Not only is the viewer drawn to the drama of the tragic testimony, but there is an emotional “rush” to viewers as they realize that the story is about someone else and not them. This is not unlike the emotional charge that is offered by horror

movies or suspenseful television dramas—we get a chance to vicariously experience the pain or fear of others without paying the price. Some years ago, Danish sociologist Svend Ranulf (1938) pointed out that this sort of very emotional news coverage is often used by totalitarian regimes to build support for repressive government actions. Most important, this sort of journalism generally does not address questions about why these terrible events occur, nor what the citizenry might do to make their families safer. Violence is portrayed as the random and irrational acts of strangers, despite the fact that most violence occurs among people who are well acquainted with each other.

Quackenbush used AB 136 to strengthen his image as a crime fighting conservative. He broadened his political rhetoric about AB 136 to encompass other conservative social concerns such as the alleged decline in personal responsibility and the claimed corrosive nature of the welfare system. As he noted, “Once you bring government into the family, you really are zapping the energy of society. People think, ‘Why should I bust my tail to raise a family? Government will take care of all of that for us.’ ” (Hubner & Wolfson, 1996: 259). Chuck Quackenbush’s argument for AB 136 also suggested, without providing any evidence, that the juvenile justice system was incapable of handling the “new breed” of young murderers. Pushing all the fear buttons, Quackenbush warned that “The Little Monsters we have today who murder in cold blood are very dangerous individuals. They have to be punished and walled off from society for a very long period of time, if not forever.” (Hubner & Wolfson, 1996: 260). He asked if voters were willing to bet their lives or those of their family members on the ability to rehabilitate young killers. He went on to explain “The way you turn things around is to make crime hurt. If you hurt a person in this society, then society has to hurt you back. It’s very primitive, but people understand it” (Hubner & Wolfson, 1996: 261).

These arguments certainly resonated with a strain of American social values that suggest that “an eye for an eye” or social revenge is an appropriate and effective response to crime. Further, there were several academic “players” such as James Q. Wilson, Charles Murray, and

John DiIulio who were providing seemingly valid intellectual cover for these political arguments. These professor-crime warriors told us that America was about to be overrun by a generation of “super predators” who were psychologically damaged and possessed lower than average intelligence and would only respond to blunt social reactions to their criminal behavior (Wilson & Hernnstein, 1985; Murray & Cox, 1979; DiIulio, 1995). Employing language designed to scare white, middle-class voters, John DiIulio wrote about a coming “Crime Bomb” carried by the new generation of “ fatherless, Godless, and jobless “ juvenile super predators that would be flooding America’s streets (DiIulio, 1995).

The highly questionable science produced by these conservative academics was trumpeted by right wing “think tanks” and given enormous coverage in the press. They were invited to present their flawed research to legislators, to the United States Congress, and to other gatherings of elected officials.

More moderate members of the California legislature could not resist the pressures from the fear-mongering right wing, the strong, publicity-savvy, victim’s advocacy groups, and the hysterical media. AB 136 was quickly passed and signed into law in 1994. This was the same year that Californians were discussing the “Three Strikes and You’re Out” ballot proposition for habitual and violent adult offenders. Trepidation about violent crime was on the political and media front burners, with the rhetoric flame turned up high.

AB 136 affected a relatively small number of young defendants, but the break with past juvenile justice traditions emphasizing the possibility of rehabilitation for very young criminals signaled the start of a stampede among elected officials to demonstrate who could be tougher on juvenile criminals. A few years later, this trend resulted in another politically motivated campaign to pass Proposition 21, which amended juvenile law to move the State towards becoming the harshest juvenile sentencing system in the nation.

And what of the payoffs for the major player behind AB 136, Chuck Quackenbush? The formerly obscure Santa Clara County lawmaker used the publicity gained via his support of AB 136 to spearhead a statewide campaign to become elected as California's Insurance Commissioner. Virtually all of Quackenbush's well-funded television advertisements centered on his role to toughen laws against juvenile criminals. This might be an appropriate electoral theme if one was running for Governor or Attorney General, but crime control was not part of the job description of the Insurance Commissioner. Despite this logical disconnect, Quackenbush became California's elected Insurance Commissioner. Politic pundits declared that the former Notre Dame University graduate was a rising political star who might be destined for even higher statewide or even national elective office.

Then something happened to derail the Quackenbush political bandwagon. A very high profile series in the Los Angeles Times written by top investigative journalist Virginia Ellis (2000) presented an alarming set of facts. It turned out that Commissioner Quackenbush had made several secret deals with major insurance companies that allowed them to escape fines for mishandling up to thousands of claims resulting from the terrible Northridge earthquake. Quackenbush ignored the advice of his own legal staff that might have produced hundreds of millions in fines for the offending insurance companies. Further, the investigation revealed that Quackenbush and his aides had "strong-armed" some of these same corporations to donate more than \$12 million to nonprofit foundations that he created. Ms. Ellis uncovered confidential documents showing that the Quackenbush used his powers as Insurance Commissioner to create a "political slush fund directed by highly paid consultants, to further his quest for higher public office." Pressures to have Quackenbush resign his office grew rapidly, but even in his last days in office, the erstwhile crime fighter approved contracts that obliged taxpayers to pay more than \$1 million for his legal fees and those of his top staff for the investigations of wrongdoing.

Commissioner Quackenbush received no jail time for these alleged felonies. He resigned

his office and was able to move to Hawai'i to avoid further legal entanglements. It does not appear that he was made to "hurt" for the damage that he inflicted while in public office. Tragically, while Quackenbush is now a long forgotten "trivia question" in California politics, the harm to young people created by AB 136 continues.

#### Governor Pete Wilson and Proposition 21

Many liberal legislators argued that the passage of AB 136 would calm the panic over juvenile violence, and would really only harm a very small number of youths. In 1994, 234 young people between the ages of 14 and 16 were arrested for homicide in the state of California (California Department of Justice, Criminal Justice Statistics Center, 1994). Opponents countered that AB 136 would just whet the appetite of ambitious politicians for more "raw meat" juvenile justice law reform. Unfortunately, Californians did not have to wait very long to see who was correct about these future predictions. After the enactment of AB 136, virtually every legislative session contained additional bills that made it easier to try juveniles as adults by expanding the list of crimes that could result in adult prosecution. Other bills moved the burden of proof from prosecutors to defendants to show that young people should *not* be transferred to criminal courts. Yet even these further "crackdown" measures did not satisfy the players.

Recall that juvenile violent crime rates in California were sharply decreasing after 1993, but the media continued its focus on juvenile gangs and violent crimes by young people. In March of 2000, the voters were asked to approve a ballot measure entitled "The Gang Violence and Juvenile Crime Prevention Act" or as it became known more popularly, Proposition 21. This voter initiative rewrote over 50 pages of law covering the California juvenile justice system. It made it even easier to try young people in criminal courts for a long list of crimes. Under Proposition 21, the decision to try youths as adults could be made at the discretion of prosecutors, without any

judicial review or hearing. Proposition 21 mandated secure confinement and stronger penalties for a wide range of juvenile offenders, including offenses such as vandalism of property costing over \$50. The ballot measure expanded the definition of gang crimes to cover almost all offenses committed by three or more youths, and permitted large increases in penalties for alleged gang-related crimes. Proposition 21 made clear that juvenile offenses would count under the existing draconian adult Three Strikes Law. Taken together, the provisions of Proposition 21 were viewed by both its critics and defenders alike as the toughest juvenile law in America.

Many of the provisions of Proposition 21 had been advocated for years by the California District Attorneys Association, but these ideas had gained little headway in the Legislature. Enter the major player, then-Governor Pete Wilson, who embraced Proposition 21 as a main component of his political agenda. It was broadly speculated in the political watering holes of Sacramento that former Governor Wilson wanted to make a run for the U.S. Presidency. The three big issues to establish the conservative bona fides for Wilson were his proposal to require labor unions to get annual permission from each member to use their dues for political purposes, an anti-teachers union program for school reform, and tough new laws against juvenile crime. It was alleged by some that Wilson's staff had purposely delayed placing Proposition 21 on the ballot until the March 2000 California Primary Election to aid his national political ambitions (Shrag, 2000). Wilson's spokespersons have denied this charge saying that they lacked the adequate funding to qualify the measure earlier.

Governor Wilson had perfected the art of using racially-charged wedge issues and ballot measures to solidify his conservative white voter base. Interestingly, some political observers felt that Pete Wilson was too moderate to capture the support of the very conservative California Republican party, let alone the very right wing national party apparatus. He had won two elections as Governor and was elected twice to the United States Senate pushing for tighter restrictions of undocumented workers (Propositions 187 and 227), denying them driver's licenses as well as basic

health, welfare, and educational benefits that were available to other California residents. He fought to pass another voter initiative that made state Affirmative Action programs virtually illegal (Proposition 209). Wilson led the statewide campaign to pass Proposition 184, the Three Strikes Law.

Raising large amounts of funds from his corporate supporters, Wilson solicited and received major contributions for the Yes on Proposition 21 campaign from Pacific Gas and Electric, ARCO, Unocal 76 and the head of Hilton Hotels, who each paid \$50,000. A spokesperson for Chevron admitted that his company gave \$25,000 to the Proposition 21 campaign at the request of then-Governor Wilson. None of these businesses had any obvious corporate interest in supporting tougher juvenile sentencing laws, but they could scarcely turn down the request of the powerful Governor who was aiming for the White House (Ching, 2000). At least one advocate who opposed Proposition 21, Kimi Lee of the ACLU, stated that “The corporations had no idea what they were supporting” (Ching, 2000). Later, after Wilson’s Presidential prospects faded, many of the corporations that gave large donations to pass Proposition 21 withdrew their support of the measure. For example, when confronted by youthful protesters, PG&E publicly retracted its corporate endorsement of Proposition 21.

Wilson claimed that Proposition 21 was not connected to his political goals. He professed to just trying to be helpful to the California District Attorneys and Sheriffs who wanted the proposed “get tough” provisions of Proposition 21. It is worth noting that Mitch Zach, who was Pete Wilson’s top political director, was the primary strategist of the Proposition 21 campaign. As Wilson’s efforts to become the Republican Party nominee for President faded, so did his highly visible presence as the chief advocate for overhauling the juvenile justice system. After Wilson’s exit from the campaign, the prosecutors and sheriffs soldiered on to pass Proposition 21. They were assisted in their efforts by Governor Gray Davis who embraced Proposition 21 and



sometimes confided to audiences that he thought that the Singapore juvenile justice system had got it right—presumably this meant that Governor Davis favored public caning as an acceptable juvenile correctional program. Davis had received over \$2 million in campaign contributions from the prison guards union (CCPOA) during his run for Governor in 1998. Proposition 21 and other new laws that further swelled the inmate population and the budget of the Department of Corrections were good business investments for the CCPOA.<sup>2</sup>

Attorney General Bill Lockyer also played a significant role in the passage of Proposition 21. Critics of the measure claimed that the very short and simple language that would appear on the ballot summary obscured the radical nature of law changes that would follow passage of the proposition. Unless one took the time to carefully review the full text of Proposition 21, most voters thought that they were being asked to endorse a measure to prevent juvenile violence and to fight dangerous street gangs. The ballot summary language emphasized the provisions about violent youth felons, but did not explain that Proposition 21 permitted police to wiretap groups of more than three juveniles whom they suspected of committing any crimes. Nor did the ballot summary language point to the elimination of much of the confidentiality of juvenile court hearings, or the stiff new penalties for juveniles committing property damage valued as low as \$50. Appeals to Attorney General Lockyer to use the ballot summary to describe the wide ranging nature of the changes in California law fell on deaf ears. Polls suggested that the more voters knew

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<sup>2</sup>Despite its role as a stratagem to further the political ambitions of Wilson and Davis, Proposition 21 rendered little help to either politician. As noted earlier, Wilson's quest for the White House stalled. Indeed, it is argued that his anti-immigrant ballot measures so alienated Latino voters that the California Republican Party lost tremendous voter support. Some have observed that national Republican leaders such as George W. Bush tried to distance themselves from Wilson's perceived anti minority image, and instead were working to win back Latino voters to the GOP. Governor Gray Davis' political fortunes were not helped by Proposition 21. In 2003, California voters decided to make him the first California Governor in state history to be recalled from his office. The close association of Davis and CCPOA was used by his opponents, especially the current Governor Arnold Schwarzenegger, as evidence of how Davis was beholden to the powerful interest groups such as the prison guards union.

about the specifics of Proposition 21, the less support that it received. Other statewide leaders either offered mild support for the Proposition, or remained mute. The principal opponents of the measure included juvenile court judges, youth advocates, civil rights groups, many labor unions, the state PTA, and the League of Women Voters. However, the groups that opposed Proposition 21 were unable to raise any significant funds to counteract the statewide campaign that was launched by the proponents and bankrolled by the corporate friends of Governors Pete Wilson and Gray Davis.

Proposition 21 was passed by a large majority of California voters. Within months of its passage, a fascinating case in San Diego County derailed the implementation of the ballot measure. As a lark, a group of eight middle-class white students decided to chase down and beat some Latino migrant workers. The San Diego District Attorney decided to charge each of these youngsters as adults under the new law citing: (1) the violent nature of the crime; (2) the fact that the offense was committed by a group of teenagers that could be defined as a gang under Proposition 21; and (3) the circumstances of the offense that suggested a hate crime. Immediately, the financially capable parents of the boys filed a series of appeals attempting to void Proposition 21. Signifying the racially tinged nature of opinion on Proposition 21, Tim McClain, the editor of the business magazine *Metropolitan*, reflected on the views of his readers: "These kids, these teenagers, as heinous as the crime that they're being accused of, are not your prototypical person that you would see prosecuted under this... They're not from low-income families. They're not gangbangers. You know they're not minorities. They're white, upper middle-class kids going to one of the best schools in San Diego" (Edwards, National Public Radio, 2000). Ultimately, the California Supreme Court found that the sentencing provisions of Proposition 21 were constitutional. Although no definitive data are yet available, it appears that Proposition 21 slowly is being implemented across the state.

### The Fight Over the Alameda “Super Jail” for Youth

Expanding local capacity to incarcerate more young people was another aspect of the California War Against the Young. Beginning in the late 1990s, the state Legislature voted to reallocate federal funding that was meant to support the construction of new prisons to renovate and expand local juvenile correctional facilities. Legislative staffers thought that this move would force the Department of Corrections to give greater consideration to alternatives to prison for adults. Further, there was a general consensus that local juvenile detention facilities were in a state of disrepair; many of the buildings were over 50-years-old and were plainly inadequate for their current mission. The Chief Probation Officers Association had tried to get a bond measure before the voters to help remedy these conditions. However, California voters had consistently rejected bonds for the improving or expanding juvenile correctional facilities, or even for building new adult jails and state prisons. To meet the financial needs to expand the adult incarceration capacity, state and local officials did an end-run around the voters, relying instead on private financing to support prison and jail expansion. This method of public financing entailed higher interest rates to be paid to private investors—adding as much as an additional one-third to costs of prison and jail construction. Under President Bill Clinton, the federal government began making grants to the states to partially defray the building of new lockups. The California share of these funds exceeded \$275 million per year. In the early years of this federal program, almost all of the grants went to adult facilities. Although most of the monies could be used for renovations and improvements, the federal program mandated that there be some, if only token, expansion in the number of custody beds.

The legislature assigned to the Board of Corrections (BOC) the job of working with counties who wished to improve existing juvenile facilities or to build new ones. The BOC created a protocol for counties to submit plans for improving and expanding their juvenile detention facilities. Counties received small planning grants and could apply to the BOC for a share of the

federal monies. This led to a virtual boom in detention bed construction across the state. Grants were given to 40 of the 58 counties, and collectively these projects expanded the detention bed capacity by 3,150 new beds, or a 50 percent expansion in juvenile beds. Besides the expanded capacity, the BOC grants partially paid for replacing another 1,300 detention beds. This all happened during the late 1990s while juvenile arrests continued to decline. Moreover, California had traditionally possessed one of the very highest rates of juvenile detention in the nation. Thus, the Golden State, which used secure juvenile lockups more than any other large state, was creating the ability to greatly increase its ability to incarcerate more young people.

The case of Alameda County and its proposed expansion of detention provides a fascinating case study of how an irrational public policy can be promoted. The County operated an aging 299-bed detention center that was located in the northern part of Alameda County—close to the neighborhoods in which most detained youths lived. The facility was in urgent need of repair, and probably replacement. There were few youth advocacy groups in the community that opposed spending funds to improve the conditions of confinement in the old juvenile hall. The County hired a Georgia-based planning firm that specialized in helping build new adult prisons to conduct a study of the needed renovations. Amazingly, the Georgia group proposed that the County build a new 540-bed juvenile hall to be located near the existing jail in the City of Dublin, far from the neighborhoods in which most detained youths lived. There were few accessible methods of public transportation that would permit the families of these incarcerated young people to visit their children. It was asserted that the existing detention center could not be retrofitted, because it sat on top of a major earthquake fault line.

The data provided to support the vast expansion of the juvenile hall were suspect, at best. The Georgia-based planners apparently misinterpreted Alameda County juvenile justice data, showing supposed increases in juvenile arrests and detention bookings, even though the Probation

Department's own statistics showed a significant decline in these juvenile crime trends. The plan justifying more detention beds assumed a 50 percent growth in the county's youth population. However, these data relied on projections of population growth in the suburban and rural parts of the County. In fact, the growing numbers of new county residents who were moving into high-priced "gated residential communities" were unlikely to be candidates for the new expanded juvenile detention center. Rising real estate values were leading to more "gentrification" of traditional urban communities, driving the poorest families to seek housing in other Bay Area counties. The plan also used data on the highest recorded monthly detention hall populations, exaggerating the real level of crowding. Finally, the Georgia group assumed that the Alameda juvenile justice system was functioning in an optimal manner, making maximum use of alternatives to secure confinement. None of these assumptions were true, but these premises allowed the plan to conclude that Alameda County must increase its detention bed capacity by 81 percent.

The County assembled a facility-planning group and applied to the BOC for funding. They secured grants of almost \$30 million to pay for needed renovations, and approximately another \$3 million to subsidize bed expansion. It should be noted that these BOC funds would cover only a small proportion of the costs of the new 540-bed juvenile hall. Further, it was unclear how the financially-strapped County would find the funding to add all of the additional staffing that would be required to operate the new facility.

At this point, the players who were mostly county bureaucrats and some elected officials were operating with little public scrutiny of their ambitious game plan. Enter a small band of dedicated youth organizers calling itself Books Not Bars (BNB). This group questioned the need for the expanded detention capacity that would result in many more young people, especially minority youths, being locked up. In addition, Books Not Bars questioned the perverse investments in more juvenile jail beds just as local budgets for youth programs, public school

funding, welfare supports, and health care were being slashed. The proposed Dublin detention complex became known as “the super jail for kids.” Books Not Bars held a number of public forums and rallies that raised serious questions about the value of the County's plans. These idealistic and politically-involved young people worked closely with a number of local and nationally respected juvenile justice research and policy groups such as the Center for Juvenile and Criminal Justice, the Commonwealth Institute, the Youth Law Center, the National Juvenile Law Center, the Justice Policy Institute, and the National Council on Crime and Delinquency to support the case that the super jail was ill conceived and that more alternatives to detention should be created.

The mobilizing efforts of BNB received intense media attention as they pled their case before the County Board of Supervisors. They traveled to a statewide meeting of the BOC to protest the grants to Alameda County. The BOC decided to avoid the adverse publicity and voted to ask the County to revise and resubmit its application for funding. This was the first time that the BOC actually turned down, if only temporarily, a local proposal to build more detention beds.

Next, the game turned ugly as the supporters of the super jail felt the need to discredit all those who questioned their plans. In a whispering campaign, BNB was labeled as a subversive organization with ties to the radical political entities. More establishment adult critics of the plan were accused of withholding their views from county planners, even though the actual planning process involved only the input of the Georgia firm and local officials. Juvenile justice officials announced to the media that the existing building was unsafe and prone to severe earthquake damage. How could the local officials disregard the potential harm to the incarcerated children? When confronted with the question of why the Juvenile Court and the Probation Department leaders were willing to wait several years for the building of a new facility to “save these endangered children,” and why there were no emergency steps to move the children to safer

housing, these inquiries were met with silence.

Referencing Proposition 21, the backers of the super jail told the community that this new law required the building of a much larger detention capacity. Yet only about 12 percent or about 40 of detained youth were there pending trial as adults. It was claimed that the detained population contained a high percentage of very violent youths, however, at least 25 percent of the juvenile hall residents were being held while awaiting placement in community group homes. Another group of young inmates were locked up for violating court orders or the rules of probation, not for new crimes. When pressed to bring in national experts to look at the existing youths in confinement and propose viable alternative programs, county officials decided to defer this analysis to a more global and more costly study of the entire juvenile justice system. This study was scheduled to be completed after the ground was broken for the expanded juvenile hall. The Request for Proposals (RFP) for this study explicitly instructed the bidders not to focus on criticisms of the juvenile court, nor to revisit the need for a new and expanded juvenile hall.

The proponents of the super jail were eventually undone, because residents of the Dublin community opposed the situating of the super jail in “their backyard.” These suburban activists joined in common cause with BNB to raise many additional questions about the need for such a large facility and the logic of placing it many miles from where the detained youths and their families resided. The Dublin activists found that the County officials claimed to have performed a thorough analysis of alternative locations for the super jail, but no such study could be located. The super jail planners had to retreat and restart the process. Next the Sheriff proposed that the County take over an abandoned jail located in downtown Oakland that had been closed because the Sheriff lacked the funds to operate it. Now the county juvenile justice leaders were fighting amongst themselves as BNB was steadily but surely converting more members of the community, especially those in faith-based groups, to the view that the super jail was a big mistake. Several of the largest religious congregations in Alameda County went on record as opposing the super jail.

At their best, the Alameda proponents of the super jail could only marshal a 3-to-2 vote of the Board of Supervisors to go forward with the Dublin juvenile facility. The two opposition votes came from Supervisors Keith Carson and Nate Miley, who represented the predominantly impoverished, minority communities of the County. The strongest support for the super jail came from Supervisor Scott Haggerty in whose district the new detention complex would be built, thereby creating an important revenue source for the local construction businesses. Supervisor Gail Steele also represented many of the more prosperous suburbs. She also was viewed as the champion of the probation officers union that stood to benefit financially as more officers were hired to run the bigger facility. The last Supervisor, Alice Lai-Bitker, represented a predominately white and politically conservative suburban community. She was heavily lobbied by youth advocates to oppose the super jail, and actually switched her vote to oppose the project. The politically powerful Sheriff announced that he would actively support a challenger to Lai-Bitker in the next election. Supervisor Lai-Bitker reversed herself again and rejoined the backers of the super jail. Despite this announcement, the Sheriff still vigorously supported an alternative candidate to Lai-Bitker in the upcoming election.

Although few county employees were willing to be quoted for attribution, it was clear that County administrators were demanding loyalty to their agenda. One top county public health official was told that he would lose his job if he publicly questioned the need for the super jail. He declared that his job with the County did not mean the loss of his right to freely express his views about what was best for the public health of young people.

The opposition from Dublin residents, combined with the continued crusade by BNB, caused the players to retreat. With successive votes of the Board of Supervisors, the size of the facility began to shrink, although no new planning data were presented to justify these alterations. Next, the county planners reconsidered the safety of rebuilding the new facility on the existing



site—apparently the problematic earthquake fault was less serious than it had seemed. In the end, the Board of Supervisors voted unanimously to rebuild on the existing site and to add the minimum number of beds required to qualify for the federal funds. The super jail was dead and the tens of millions of taxpayer dollars that were invested in the planning and design of the Dublin facility resulted in a compromise that would have been acceptable to the youth advocates at the very beginning of the struggle. There were significant personnel changes in the top leadership of the Probation Department and the Juvenile Court, and this meant that some of the most forceful advocates of the super jail were not longer in the game.

### **The Remix**

In the vernacular of contemporary music, a Remix is a blending of components to reach a new creative level. One version of the Remix involves sampling from classic popular music of the past 50 years that is combined with complex rhythmic additions and the innovative use of the spoken word. This form of the Remix seems very applicable to finding the strategies to “beat down” the players and their game on behalf of young people. Expressed in more formal social science jargon, we might think of the Remix as a pathway to social reconstruction.

The brief case studies presented in this paper suggest some ways to resist the War Against the Young. Some of the best of these approaches use very conventional methods of research and the presentation of solid evidence to stand up to the players. Public demonstrations and community mobilization proved to be crucial tools against the players and the game. Many of these direct community action strategies were very successful during the Civil Rights Movement and the mobilization to end the Vietnam War. These successful social justice campaigns taught us the value of forging broad community coalitions that bring diverse groups to the table. These organizing efforts rest on a profound respect for all people, including the need to listen and respond to their immediate concerns.

The Remix used litigation strategies, voter mobilization, and publicity to expose injustices and to educate the public. While there was ongoing dialog with the players (“keep your friends close, and your enemies closer”), the progressive groups never lost sight of the lesson that real social change needed to happen at the grassroots level.

The current generation of social reformers consists of a variety of very dedicated youth organizers who are savvy about using the mass media and come armed with research data to back up their arguments. Contemporary advocacy groups exhibit an impressive ability to sustain a diversity of ethnicity, gender, and age in their organizations. I remember that, after an early meeting with representatives of BNB, I confided with a colleague about how polite and respectful these young people were with us “old heads” from the 1960s. We were a lot angrier, I concluded. My very wise colleague educated me that “They are just a whole lot smarter than we were in the 1960s,” and had gotten everything they needed without resorting to confrontational tactics. The new generation of social justice advocates shows a very sophisticated grasp of how to balance confrontation and accommodation. Most important, the new generation of reformers is focused on getting results.

In this Remix of old and new, justice reformers can make a real difference in the lives of young people. First and foremost, strategies of social reconstruction demand that the players not be let off the hook. The cynical leaders in the War Against the Young must be publicly held to account for their actions. Second, we should not assume that most citizens know the abuses being practiced in their name. Helping the media to expose abusive and corrupt government practices is an important part of social reconstruction. Equally important is the ability to put forth real-world examples of what a better social policy should resemble. People must be inspired by positive and practical solutions to seemingly intractable problems. The players want us to believe that “nothing works.”

Recently in California, the justice reformers have turned the tables on the players by using the tool of voter initiatives to usher in progressive policies. For too long these ballot measures brought us reactionary social policies such as Three Strikes and Proposition 21. Just a few years ago, advocates of progressive reform of state drug policies successfully passed Proposition 36, which allowed minor drug offenders to be diverted to treatment programs in lieu of jail. This measure was almost universally opposed by criminal justice system officials. Most establishment politicians avoided taking a public position on the measure. The proponents employed sophisticated polling and focus group techniques to craft their message. They learned that most Californians reported that someone in their immediate family was suffering from an addiction problem, and that they felt that jailing their family members was an expensive and counter-productive approach. Proposition 36 passed by a wide margin.

Another progressive reform measure, Proposition 66, is designed to amend the pernicious Three Strikes Law and is supported by 65 percent of Californians as measured in a recent public opinion poll. The Yes on 66 Campaign is utilizing similar and sophisticated electoral strategies to those employed for passage of Proposition 36. Progressive reformers have also learned that recruiting financial supporters, especially via the Internet, can enable a serious statewide campaign to build momentum. Another voter initiative, Proposition 63, places a modest tax on millionaires to help fund badly needed programs to prevent and treat mental illness. Neither of these bold reforms could have successfully survived the onslaught of special interests if the game had played out only in the Legislature and Governor's Office.

The Remix has rediscovered the enormous power of giving young people back their voice. Jerome Miller, a champion of the old school justice reformers, built public support for closing the terrible youth prisons in Massachusetts in the early 1970s by using this approach. As Commissioner of the Department of Youth Services, Miller set up public forums around the Bay State that featured youthful inmates who told their stories of maltreatment to civic and religious

groups, and to the media. Their message was compelling and persuasive. Current reformers are also very attentive to the value of empowering young people. Groups such as The Beat Within work with incarcerated young people, encouraging them to write down their experiences, and then communicate these powerful insights to the public. Books Not Bars has organized families of incarcerated young people to share their hopes and dreams that their children's lives can be redeemed. Organizations such as Youth Radio teach disadvantaged youths to use the tools of the electronic media to tell their stories.

The players in the War Against the Young can be very ruthless and the game can be very "cold," but the Remix for social justice is showing us that the rules of the game can be changed and the players can be defeated. We have learned that the cynical exploitation of our frustrations, anxieties, and psychic distance from the young is too harmful to our communities for any of us to sit on the sidelines.

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